

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Moses K.,

Civ. No. 19-2035 (DSD/BRT)

Petitioner,

v.

Kevin McAleenan; William Barr; Thomas
Homan; Shawn Byers; and Joel Brott,

ORDER

Respondents.

IT IS HEREBY ORDERED that:

1. Respondents are directed to file an answer to the petition for a writ of habeas corpus of Petitioner within **30 days** of this order certifying the true cause and proper duration of Petitioner's confinement and showing cause why the writ should not be granted in this case.

2. Respondents' answer should include:

- a. Such affidavits and exhibits as are needed to establish the lawfulness and correct duration of Petitioner's incarceration, in light of the issues raised in the petition;
- b. A reasoned memorandum of law and fact fully stating Respondents' legal position on Petitioner's claims; and
- c. Respondents' recommendation on whether an evidentiary hearing should be conducted in this matter.

3. If Petitioner intends to file a reply to Respondents' answer, he must do so within 30 days of the date when the answer is filed. Thereafter, no further submissions from either party will be permitted, except as authorized by Court order.

4. Petitioner's application to proceed *in forma pauperis* (Doc. No. 2) is **GRANTED**.

5. There is no constitutional or statutory right to counsel in civil cases, including habeas corpus proceedings. *Pennsylvania v. Finley*, 481 U.S. 551, 556 (1987). Rather, "[a] district court may appoint counsel for a habeas petitioner when 'the interests of justice so require.'" *Hoggard v. Purkett*, 29 F.3d 469, 471 (8th Cir. 1994). Here, Petitioner's motion is premature because his case has not yet been adequately briefed. Thus, the interests of justice do not require the appointment of counsel at this time. Petitioner's motion for appointment of counsel (Doc. No. 3) is **DENIED** without prejudice.

Dated: August 13, 2019

s/ Becky R. Thorson
BECKY R. THORSON
United States Magistrate Judge